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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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IN THE MATTER OF U S WEST
COMMUNICATIONS, INC.'S COMPLIANCE
WITH § 271 OF THE
TELECOMMUNICATIONS ACT OF 1996.

DOCKET NO. T-00000A-97-0238

QWEST CORPORATION'S COMMENTS TO STAFF'S RECOMMENDED

INTERCONNECTION/COLLOCATION REPORT

Qwest Corporation hereby provides its comments on the Arizona Corporation Commission Staff's (Staff's) Draft Report (Report) issued on August 14, 2001, concerning Interconnection and Collocation. Qwest commends the Staff for its hard work in generating and issuing the Report. Qwest accepts most of its conclusions; however, Qwest requests reconsideration or modification of three interconnection issues – (1) interconnection at the access tandem, (2) DTT in excess of 50 miles, and (3) indemnifying CLECs twice for the same purported misconduct – as well as three collocation issues – (1) collocation intervals, (2) maximum number of collocations per week, and (3) cost recovery for channel regeneration. Qwest believes that the recommended resolution of these issues is inconsistent with the law, facts and/or public policy. Qwest will describe each issue below.¹

¹ An SGAT, filed on this same date, reflects the language changes required in the Report in a redlined format. That SGAT does not contain language implementing the recommended decision in those instances where Qwest challenges the recommended decision.

II. CHECKLIST ITEM 1: INTERCONNECTION

The direct and rebuttal testimony of Thomas R. Freeberg described Qwest's compliance with the requirements of checklist item 1 (interconnection). Interconnection is the physical connection of two networks through the placements of trunks or transport capacity between a Qwest switch and a CLEC switch. This connection ensures that CLEC customers can call Qwest customers and vice versa.

Mr. Freeberg testified that Qwest meets its interconnection obligations and the FCC's rules for interconnection. Mr. Freeberg also provided substantial performance data showing that trunk blockage is low, while trunk provisioning and repair is prompt. Mr. Freeberg also provided volumes of interconnection trunks in the Arizona. Since filing his testimony, the cumulative volumes of interconnection trunks provided to CLECs have increased dramatically. As of June 30, 2001, Qwest was providing 160,574 trunks to CLECs that carry 1.3 billion total minutes of traffic each year.

Qwest challenges the recommended resolution of three interconnection issues: (1) when must Qwest allow interconnection at the access tandem, (2) whether Qwest must construct direct trunk transport (DTT) in excess of 50 miles, and (3) whether Qwest must indemnify CLECs twice for the same purported misconduct. Each issue will be addressed below.

A. Whether Qwest Can Require a CLEC to Move from Tandem Trunking to Direct Trunking when Traffic Volumes Warrant: Disputed Issue No. 11.

1. Qwest Agrees to Allow Interconnection at the Access Tandem Subject to the 512 CCS Rule.

Section 251(c)(2) of the Act requires Qwest to provide interconnection to CLECs at any technically feasible point and at parity with that it provides to itself. CLECs interpret this to mean that they have unilateral authority to determine where and how to interconnect with Qwest. In CLECs' opinion, Qwest's local network architecture has no bearing on these issues. While Qwest has always been willing to allow interconnection at any technically feasible point, Qwest believes that its network architecture should be considered a factor in where and how CLECs

interconnect. Nonetheless, in an attempt to avoid briefing this issue, Qwest agreed to allow interconnection at its access tandem in certain circumstances.

The Report stated that “Qwest has agreed to adoption of the Multi-State findings and conclusions on this issue which would allow local traffic to terminate at the access tandem. Staff proposes adoption of the same language adopted in the Multi-State process. . . .” Report at ¶351. This finding is incorrect. Qwest agreed to the Multi-State proposal with one significant modification, applicability of the 512 CCS rule. Qwest respectfully requests that the Staff modify its recommendation to make this change.

2. Qwest’s Historic Network Architecture makes Interconnection at the Access Tandem Problematic in Many Circumstances.

Interconnection at the access tandem presents problems for Qwest because its network is bifurcated into two distinct parts: (1) its local network; and (2) its long distance network. Qwest’s bifurcated network approach led to two distinct sets of tandem switches: those that switch local traffic (local tandems) and those that switch long distance traffic (access tandems). Qwest’s network architecture, which predates the Act by many decades, has historically separated local and long distance traffic. Thus, Qwest has separate, mature trunk groups in place to carry both local and long distance calls. These trunk groups are sized to accommodate the call volumes that Qwest has historically experienced with growth that can be planned with some precision. CLECs are effectively asking the Commission to eviscerate this long standing network distinction.

3. Application of the 512 CCS Rule Protects Qwest, CLECs, and Consumers from Unnecessary Call Blockage.

For the most part Qwest does not object to allowing interconnection at the access tandem. Qwest will allow CLECs to interconnect at the access tandem and carry a certain percentage of

their traffic in this manner. The Report, however, effectively allows CLECs to carry all of their traffic through the access tandem. This would cause monumental problems that would harm Qwest's and CLECs' customers alike. The reason: Qwest's long distance network is simply not designed to handle all of the long distance traffic and a substantial and increasing percentage of local traffic.²

There is one relatively simple way to protect against most aspects of this concern – require CLECs to utilize direct trunks (move away from the access tandem and create a direct connection between their switch and the end office that receives the increased volume of traffic) when industry recognized engineering standards warrant the transition. This is known as the 512 CCS rule. 512 CCS (centum call seconds) is the equivalent of one DS-1 worth of traffic. It is widely recognized as the point where economics warrant moving away from tandem trunks and to direct trunks.³ Almost every time a CLEC routes a call through a tandem switch, it must also be switched at an end office, thereby requiring the CLEC to pay for Qwest to switch the traffic twice. When the 512 CCS standard is met, it is generally more economic from a cost perspective and less onerous from a traffic volume perspective to install direct trunks. While the CLECs must install a direct trunk, they must then only pay Qwest to switch the traffic one time. Thus, the only modification Qwest seeks to the Report is to require CLECs to transition away from tandem trunking and to direct trunks when the 512 CCS rule is met.

D. *CLECs Agreed to the 512 CCS Rule in the Workshop.*

² At the beginning of the Interconnection Section of the brief, Qwest stated that it currently exchanges 1.3 billion minutes of traffic with CLECs on its interconnection trunks in Arizona. Transitioning this traffic to the trunks designed to handle long distance calls alone would cause severe trunk blockage in many circumstances.

³ In fact, this standard is more generous than BellCore recommended standard, which recommends conversion at 435 CCS. See *Trunk Traffic Engineering Concepts and Applications*, SR-TAP-000191, § 6.3.2 at 6-15 (Dec. 1989, Issue 2).

In 271 proceedings in Arizona and throughout Qwest's region, AT&T has acknowledged the propriety of the 512 CCS rule. When discussing interconnection with the access tandem, they have never challenged the 512 CCS rule as the following testimonial examples make plain:

Arizona:⁴

Mr. Steese [Qwest]: AT&T does not object to the 512 CCS standard, correct?

Mr. Menezes [AT&T]: Correct.

Colorado:⁵

Mr. Steese [Qwest]: . . . [D]ifferent trunk groups and the 512 CCS [rule], they would both apply, correct?

Mr. Boykin [AT&T]: Exactly right. *Those conditions still remain, and we agree with those, because, you know, it would just be good sound engineering practice.*

No other CLEC has challenged the standard in any Qwest 271 proceeding.

Arizona adopts the 7-State Facilitator's decision. In that decision, the Facilitator recognized the propriety of the 512 CCS rule, stating: "There is an evidentiary basis for concluding that Qwest's network configuration as it concerns the division of tandem switches can cause problems at different usage levels." Moreover, the proposed modification to SGAT § 7.2.2.9.6 retains the 512 CCS standard. The problem with the Report, however, is that it makes the 512 CCS rule optional; the CLEC is not required to transition to the direct trunk.

Throughout Qwest's region, CLECs have not complained about the propriety of the 512 CCS rule. To the contrary, parties have endorsed it. The debate was never over whether parties

⁴ Arizona Corporation Commission, Docket No. T-00000A-97-0238 (Nov. 14, 2000) at 939; *see also* Public Utility Commission of Oregon, Docket No. UM 823 (Oct. 26, 2000) at 594 ("there's no real problem" with the "512 CCS requirement"); Washington Utilities and Transportation Commission, Docket No. UT-003022 (Nov. 7, 2000) at 42 (no difficulty including 512 CCS, so long as not 512 busy hour CCS "and let the companies continue in the way that they've been working with this issue").

⁵ Public Utilities Commission of Colorado, Docket No. 97I-198T (Aug. 2, 2000) at 23 (emphasis supplied).

should move to direct trunks when the rule was met. Since Qwest has agreed not to challenge the other aspects of this decision, CLECs have obtained everything they requested in the workshops on this issue. By going the next step and not adopting the 512 CCS Rule, however, the Staff places Qwest's entire network and how it operates at risk. The record from this proceeding does not warrant this extreme decision, which no one requested. Thus Qwest asks that the original Section 7.2.2.9.6 be deleted and replaced with the following language:

7.2.2.9.6 CLEC may interconnect at either the Qwest local tandem or the Qwest access tandem for the delivery of local exchange traffic. When CLEC is interconnected at the access tandem and where there would be a DS1's worth of local traffic (512 CCS) between CLEC's switch and a Qwest end office subtending the Qwest access tandem, CLEC will order a direct trunk group to that Qwest end office.

7.2.2.9.6.1 Qwest will allow Interconnection for the exchange of local traffic at Qwest's access tandem without requiring Interconnection at the local tandem, at least in those circumstances when traffic volumes do not justify direct connection to the local tandem; and regardless of whether capacity at the access tandem is exhausted or forecasted to exhaust.

This takes the recommended decision in the Report and simply overlays the 512 CCS rule as a requirement. It does not give Qwest the alternative of interconnecting elsewhere at its sole discretion if it is willing to absorb the cost differential. Qwest respectfully requests that the Staff adopt this Qwest's proposed SGAT language.

B. Qwest's Obligation to Build Direct Trunked Transport in Excess of 50 Miles on CLEC's Behalf: Disputed Issue No. 7.

Direct Trunked Transport (DTT) in conjunction with entrance facilities provides CLECs with the ability to connect the CLEC's end office switch to a Qwest tandem or a Qwest end office switch. Qwest has agreed to provide CLECs with DTT without any limitation of length, so long as Qwest has available facilities. Qwest proposed a limitation on the length of DTT facilities that Qwest must construct on CLEC's behalf when no spare DTT facilities are

available; specifically 50-miles. CLECs claim that Qwest must construct DTT facilities without any limit on the length of the facility.

The Report adopted the CLEC position. Report at ¶ 330. If this position is upheld, Qwest will be required to construct DTT to span distances of up to several hundred miles to carry local CLEC calls. Although the Act requires incumbent LECs to permit CLECs the opportunity to interconnect with an incumbent's network at any technically feasible point, it does not say that Qwest must build those facilities for CLEC without limitation. To the contrary, Congress recognized that there should be some reasonable boundary on an obligation that an ILEC build the CLEC facilities.⁶

In the workshop, Qwest recommended that the obligation to build transport capacity be limited to 50 miles. The Colorado and Washington Commissions as well as the Oregon Administrative Law Judge agree with Qwest's proposal.⁷ The Colorado and Washington Commissions relied upon an FCC acknowledgement that some reasonable end point to an incumbent LEC's obligation to build is appropriate. The FCC stated, "[r]egarding the distance from an incumbent LEC's premises that an incumbent should be required to build out facilities for meet point arrangements, we believe that the parties and state commissions are in a better position than the Commission to *determine the appropriate distance that would constitute the*

⁶ E.g., Iowa Utils. Bd. v. FCC, 120 F.3d 753, 812-13 (8th Cir. 1997), rev'd on other grounds, AT&T Corp. v. Iowa Utils. Bd., 525 U.S. 366 (1999) ("*Iowa Utils. Bd. I*"), followed on remand, Iowa Utils. Bd. v. FCC, 219 F.3d 744, 758 (8th Cir. 2000) ("*Iowa Utils. Bd. II*") (although the Act requires incumbent LECs to provide interconnection at any technically feasible point, it does not require "superior quality interconnection").

⁷ The 7-State Facilitator also recommended dropping this provision from the SGAT. Qwest has challenged that resolution. The only two of the seven state commissions to consider this issue to date – Utah and Wyoming – have provided additional protection to Qwest.⁷ The Utah Report concluded that "under circumstances where parties cannot reach an agreement [about who should build the DTT], the issue is to be brought before the state commission to be decided upon an individual case basis." Wyoming agreed with Utah. The other five commissions currently have the issue before them. No Commission has done what the Staff recommends here, dropping the 50 mile limit altogether.

required reasonable accommodation of interconnection.”⁸ The FCC also stated: “the ‘point’ of interconnection for the purposes of Sections 251(c)(2) and 251(c)(3) remains on the local exchange carrier’s network (e.g. main distribution frame, trunk-side of the switch), and the *limited build-out* of facilities from that point may then constitute an accommodation of interconnection.”⁹ If Qwest were required to build out its facilities to any distance to accommodate interconnection, the FCC’s use of the word “limited” in this context, and its statement regarding deferral to state commissions to determine the reasonable distance for mid-span meet points, would have no meaning.

The Staff disagreed with Qwest lifting the mileage limit altogether. Staff rested its decision on the assertion that Qwest presented no evidence that 50 miles is a reasonable limit. Report at ¶330. Qwest’s evidence is the sheer cost; laying fiber costs approximately \$50,000 per mile. Moreover, the Staff also claimed that Qwest could present testimony in the cost docket attempting to recover costs for laying fiber in excess of 50 miles. Report at ¶331. The Report, therefore, refers the issue of cost recovery to the Arizona cost docket. The cost docket does not provide Qwest with the protection it seeks either.

Qwest is concerned that CLECs will abuse this provision, effectively asking Qwest to build when it is simply not economical to do so. In a cost docket, average cost based rates are developed. High cost scenarios are not priced out. It is assumed that average costs will allow Qwest to recover its cost over time. If, however, the CLECs pick and choose the locations when Qwest must build on their behalf, Qwest may have no ability to recover its costs. Moreover, the cost of these facilities are recovered, for the most part, through usage based reciprocal compensation payments. Thus, if traffic volumes are small (and in many instances in outlying

⁸ *Local Competition Order* at ¶ 553 (emphasis added).

⁹ *Id.* (emphasis added).

areas such as those that CLECs will reach with transport greater than 50 miles in length), Qwest may not be able to recover its costs for years, if ever. The current language incents CLECs to order DIT in a remote location to serve one customer, because Qwest, not the CLEC, will foot the bill. Given the substantial cost of laying fiber (approximately \$50,000 per mile), this is simply an unfair burden to thrust upon Qwest.

Qwest respectfully requests that the Staff join Colorado, Oregon and Washington and reinstate SGAT § 7.2.2.1.5. At a minimum Qwest asks the Commission to adopt the language in the Utah and Wyoming Commission recommendations. Utah and Wyoming stated that when the parties were unable to agree on who should construct the DTT, that the commission would decide the issue. This would modify SGAT § 7.2.2.1.5 as follows:

If Direct Trunked Transport is greater than fifty (50) miles in length, and existing facilities are not available in either parties network, and the parties cannot agree as to which Party will provide the facility, the Parties will bring the matter before the Commission for resolution on an individual case basis.

Qwest's original language would have required the parties to build to a mid-point in these circumstances. Qwest still believes that this is appropriate and asks the Staff to retain SGAT § 7.2.2.1.5. At a minimum, however, Qwest asks that in the rare circumstances when all of these conditions exist (no facilities by either party, requested DTT in excess of 50 miles, and the parties cannot agree) that the Commission, not CLEC, decide the best course of action under the specific circumstances.

C. It is Inappropriate to Allow CLECs to Recover Twice from Qwest for the Same Purported Failure to Perform: Disputed Issue No. 1.

Qwest has negotiated a Performance Assurance Plan (QPAP) that automatically fines Qwest when it fails to perform to expectation. As to interconnection, Qwest must install and maintain interconnection trunks, on average, at parity with Qwest's Feature Group D Trunks.

Qwest must also keep overall trunk blockage below 1% or, at a minimum, at parity with Qwest's interoffice trunks. The FCC found that negotiated performance metrics identify the level of performance that CLECs need to effectively compete:

[F]or functions for which there are no retail analogues, and for which performance benchmarks have been developed in the ongoing participating of affected competitors and the BOC, *those standards may well reflect what competitors in the marketplace feel they need in order to have a meaningful opportunity to compete.*¹⁰

Thus, in Arizona performance measure workshops, the parties uniformly agreed to what constitutes adequate interconnection performance.

Now, the CLECs demand more. CLECs demand that Qwest reimburse them for failures to provide individual trunks on a timely basis. The Report concludes that "penalties assessed against Qwest under its QPAP and the Service Quality Plan Tariff were separate and distinct plans and should be applied independently of each other." Report at ¶298. This recommendation creates an untenable scenario. Not only does CLECs proposed SGAT language allow them to recover for failures in performance that they agreed are acceptable in performance workshops, but it allows them to recover twice for performance breaches that fall below standard. Qwest has challenged the same issue on the Staff's Final Resale Report.

Staff's recommendation to add a provision that would allow a double penalty against Qwest for the same incident appears to be based on an incorrect understanding concerning operation of the QPAP. The Commission is currently involved in the process of drafting a post-271 Performance Assurance Plan that will subject Qwest to *significant* fines and penalties for the

¹⁰ *Bell Atlantic New York Order* ¶ 55 (emphasis supplied). In the recent *Verizon Massachusetts Order*, the FCC further elaborated on this standard: "[W]here, as here, [performance] standards are developed through open proceedings with input from both the incumbent and competing carriers, *these standards can represent informed and reliable attempts to objectively approximate whether competing carriers are being served by the incumbent in*

failure to maintain performance as defined in numerous PIDs. The SGAT should strike a balance between providing an incentive to Qwest to meet service quality requirements, but at the same time avoid penalizing Qwest unnecessarily in the event that the same service quality incident would otherwise be subject to fines or penalties under the QPAP. To find otherwise would lead to a windfall for CLECs.

Qwest respectfully submits that the QPAP will have more than enough teeth to act as an effective incentive and deterrent without the need for providing for duplicate penalties under the SGAT. It is not reasonable to assume that Qwest will be any less motivated to avoid service quality problems because in certain limited situations it will not be penalized twice for the same incident, or that Qwest would have somehow calculated the potential diminution in the penalty and engaged in conduct it otherwise would have avoided based on that fact.

Conversely, the elimination of double penalty would in fact avoid an unnecessary windfall to CLECs. Contrary to the assumption in the Staff Final Resale Report (upon which the Staff relies here), it would be unreasonable and unduly punitive to subject Qwest to two penalties for the same service problem. In this sense, Qwest respectfully disagrees with the Staff's conclusion that Qwest would not be penalized twice for the same incident. To the contrary, a double penalty is precisely what would occur if the CLECs proposed language to SGAT § 7.1.1.1 is added. Under the Report, Qwest would be penalized twice for the same conduct: once in the form of indemnification to CLECs, and another time under the QPAP. Unlike resale, for interconnection performance there is no end-users that the CLEC could pass the credit to; therefore, CLECs would obtain a windfall by definition. CLECs would recover twice for the *exact same incident*.

substantially the same time or manner or in a way that provides them a meaningful opportunity to compete." Verizon Massachusetts Order ¶ 13 (emphasis added).

In the resale context, the Facilitator in the Multi-State proceeding noted the plain inequity of this result:

Finally, it is proper for Qwest to provide protection in the event that PEPP payments clearly include payment to CLECs or their customers for state quality "misses." There is no sound policy for making Qwest pay twice for the same thing; nor is it at all clear that PEPP payments will necessarily not include such items. To the extent that they eventually may do so, Qwest should have explicit SGAT recognition that Section 6.2.3.1 is not intended to duplicate them. To the extent that they eventually do not, inclusion of 6.2.3.1(d) will cause no harm to anyone.¹¹

Accordingly, Qwest respectfully submits that Staff accept Qwest's SGAT language and not include CLECs' proposed language additions to Section 7.1.1.1.

II. CHECKLIST ITEM 1: COLLOCATION

Qwest demonstrated its compliance with the requirements of checklist item 1 (collocation) in the Direct and Rebuttal Testimony of Margaret S. Bumgarner. Ms. Bumgarner testified that Qwest meets all of its collocation obligations as well as the FCC's rules and decisions on the subject. Ms. Bumgarner also testified to Qwest's commitment to provide many different forms of collocation to CLECs in a timely manner. This commitment is reflected by Qwest's outstanding performance data.

Moreover, since filing her testimony, the cumulative number of CLEC collocations have increased dramatically. As of June 30, 2001, in Arizona 33 CLECs had 472 physical and 31 virtual collocations in 79 of Qwest's 143 central offices (COs). Forty-five of these 79 COs have 3 or more separate collocators. From these 79 COs, CLECs can access 94% of Qwest's access lines. Moreover, CLECs also have 57 COs with 136 collocations to support line sharing. This data shows that Qwest can and does provide collocation to CLECs throughout Arizona.

¹¹ Multi-state Report 1, p. 132.

Qwest challenges the recommended resolution of two collocation issues and asks for slight clarification of one more: (1) whether Qwest can extend the collocation interval by 30-days when CLECs fail to forecast, (2) whether Qwest can limit the number of collocations CLECs can submit in one week while obtaining standard collocation provisioning intervals and (3) is Qwest entitled to recover the cost of channel regeneration from CLECs. Each issue will be addressed below.

A. Whether Qwest is Entitled To Extend Collocation Provisioning Intervals by 30-Days for the CLECs Failure to Forecast: Disputed Issue No. 4.

The parties went to impasse over whether Qwest can extend the interval it takes to provision collocation when the CLEC failed to submit a forecast. The SGAT contains a 90-day collocation provisioning interval when Qwest receives a forecast at least 60-days in advance of the order. On the other hand, a failure to forecast extends the interval from 90-days to 120-days. Historically, Qwest received virtually no collocation forecasts and its average provisioning interval was approximately 130-days. Qwest met this interval consistently. Qwest is prepared to decrease this interval by 40 days or 30% so long as the CLEC forecasts the collocation. Qwest position is entirely consistent with decisions of the FCC. This approach is also consistent with performance measures previously negotiated in Arizona. The Report adopts the CLECs approach and eliminates the distinction between forecasted and unforecasted collocations. Report at ¶403. Qwest asks the Staff to reverse course and adopt Qwest's intervals.

1. The FCC has Specifically Authorized 120-Days for Qwest to Install Unforecasted Collocations.

By way of background, on August 10, 2000, the FCC issued an Order that established a national 90-day default interval for provisioning physical collocation.¹² Through its Order the

¹² See *Order on Reconsideration and Second Further Notice of Proposed Rulemaking and Fifth Order Notice of Proposed Rulemaking, Deployment of Wireline Services Offering Advanced Telecommunications Capability and*

FCC requires incumbents, under ordinary circumstances, to complete all aspects of collocation within 90-days of receiving a requesting carrier's application. On November 7, 2000, in response to requests filed by Qwest, Verizon, and SBC, the FCC released an Amended Order,¹³ which clarified its earlier decision and extended the 90-day default interval when the CLEC failed to provide a forecast.

In reaching this conclusion, the FCC recognized the importance of forecasts and specifically tied the collocation interval to the existence of a forecast. The interim standards approved by the FCC specifically for Qwest require timely forecasts from CLECs as a precondition for the provisioning of collocation in a 90-day time frame.¹⁴ The interim standards allow for longer intervals (150 days) for unforecasted collocation applications.¹⁵ Thus, although CLECs now challenge Qwest's use of a 120-day interval, this interval is less than that expressly approved by the FCC. In fact, the FCC stated that even 150 days would be appropriate as a maximum interval in the absence of CLEC forecasting.¹⁶

Despite this fact, CLECs continue to object to SGAT provisions that condition Qwest's delivery of collocation on the existence of CLEC forecasts. Specifically, CLECs question the 120-day interval for virtual and physical collocation absent a CLEC forecast (SGAT §§ 8.4.2.4.3, 8.4.3.4.3, 8.4.3.4.4). CLECs have not offered any reasoned justification for their continued

Implementation of the Local Competition Provisions of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 98-147, FCC 00-297, ¶ 64 (rel. August 10, 2000) ("FCC00-297").

¹³ Memorandum Opinion and Order, *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, FCC 00-2528 (rel. Nov. 7, 2000) ("Amended Order").

¹⁴ *Amended Order* at ¶ 19 n.36 ("Specifically, a carrier that submits an acceptable collocation application to Qwest 60 days after submitting a forecast would be entitled to a provisioning interval of no more than 90 days.")

¹⁵ See *Attachment B* to Qwest's *Petition for Waiver*. Specifically, the FCC accepted the intervals set forth in "Attachment B" subject to only one limitation. See *Amended Order* at ¶¶ 9 & 19. Qwest's Waiver sought collocation intervals for unforecasted collocation up to 240 days for major reconfiguration of a premises. *Id.* at ¶ 18. The FCC stated that it would permit up to 60 additional days for unforecasted collocation "unless the state commission specifically authorizes longer intervals." *Id.* at ¶ 19. The 120-day interval was, therefore, specifically deemed to be appropriate.

objection to the need for forecasts, which is particularly telling in light of the FCC's recognition of the importance of forecasts in the provisioning process. To the contrary, several CLECs acknowledged their willingness to provide, and the importance of, such forecasts.¹⁷

Again, the FCC expressly permits incumbents to "require a competitive LEC to forecast its physical collocation needs," and "... [to] penalize an inaccurate forecast by lengthening a collocation interval."¹⁸ The FCC specifically allowed Qwest itself to extend the collocation intervals for the failure to forecast as it specifically "allow[s] Qwest to increase the provisioning interval for a proposed physical collocation arrangement no more than 60 calendar days in the event a competitive LEC fails to timely and accurately forecast the arrangement, unless the state commission specifically approves a longer interval."¹⁹ In approving these interim intervals the FCC expressly stated, "[w]e also find Qwest's proposed reliance on forecasts reasonable as an interim measure"²⁰ Clearly, the FCC has more than sanctioned the use of forecasts in establishing appropriate provisioning intervals; it has encouraged the practice as an effective means of enabling incumbents to plan space needs and to comply with their obligations under the Act. Competing carriers clearly benefit, in turn, from incumbent LEC compliance.

¹⁶ *Amended Order* at ¶ 19, n.36.

¹⁷ Six State Collaborative Workshops, Salt Lake City, Utah, Workshop 1, October 6, 2000, Tr. pgs. 83-84 (Covad); Six State Collaborative Workshop, Salt Lake City, Utah, Workshop 1, October 4, 2000, Tr. pgs 86-87: Mr. Steese: And McLeod would have no objection to submitting collocation forecasts on a routine basis to get those shortened time frames? Mr. Jennings: We'd have no objection to that. Mr. Steese: McLeod would be willing to provide forecasts to Qwest to get the shortened intervals? Mr. Jennings: Yes. In addition, New Edge claimed it had no objection to collocation forecasts in response to written discovery.

¹⁸ *Order on Reconsideration* at ¶ 39.

¹⁹ *Amended Order* at ¶ 19 (emphasis added).

²⁰ *Id.*

2. *The PIDs Negotiated in Arizona Support the 120-Day Interval.*

Over the past year, Qwest's average collocation provisioning intervals have been approximately 120-130 days.²¹ Qwest's historic performance data shows it met this interval consistently.²² These intervals are not coincidental. Qwest's proposed intervals are consistent with positions agreed to by CLECs during development of collocation performance metrics.

Before the FCC issued its recent collocation decisions, parties in Arizona openly agreed on performance metrics that included a 10-day feasibility study, a 25-day quote, and a 90-day provisioning interval.²³ These intervals were cumulative and in addition to time spent by the CLEC to pay for ½ of the quote before installation of the collocation actually began. Thus, assuming 7 days for the CLEC to pay the quote (as the FCC does in its recent decisions), the collocation interval all parties in the ROC agreed to was 132 days (10 day feasibility + 25 day quote + 7 days to pay quote + 90 day installation = 132 days). As stated above, the FCC concluded that when "[performance] standards are developed through open proceedings with input from both the incumbent and competing carriers, these standards can *represent informed and reliable attempts to objectively approximate whether competing carriers are being served by the incumbent in . . . a way that provides them a meaningful opportunity to compete.*"²⁴ Thus, in a time when CLECs were not forecasting collocations, CLECs stipulated that 125- to 132-day provisioning intervals provided them a meaningful opportunity to compete.

This clear statement of fact belies any assumption that CLECs would be penalized for the failure to forecast. Rather than punishing the failure to forecast, Qwest is rewarding CLECs that

²¹ See "CP" Performance metrics on the website that posts both regional and state specific performance data. www.qwest.com/wholesale/results/index.html.

²² See www.qwest.com/wholesale/results/index.html (CP PIDs)

²³ CP-PIDs, attached as *Exhibit 2*.

²⁴ Verizon Massachusetts Order ¶ 13 (emphasis added).

provide a forecast by shortening the interval by at least 30-days. Parties agreed to 132-day intervals in Arizona workshops. CLECs were not forecasting collocations as of the time of the workshop and Qwest's intervals were 120-130 days; thus, it is a fairly safe assumption that Qwest will miss 90-day collocation intervals if forecasts are not provided. Rather than helping CLECs to compete, the shortened intervals, through the QPAP, will merely punish Qwest. Thus, the Staff's decision will result in a direct financial impact on Qwest for the failure of CLECs to do something – forecast – that they themselves have acknowledged is important.²⁵

Moreover, Qwest firmly believes that CLECs will not provide any collocation forecasts unless CLEC are required to forecast collocations to get a shortened interval. That has certainly been Qwest's real life experience; virtually no collocation forecasts have ever been provided. If the Staff's decision stands, CLECs can still get the collocations in time frames that allow them to effectively compete (120 days), while at the same time receiving fines paid by Qwest under the QPAP for the failure to meet unrealistic intervals.

3. *Conclusion*

The collocation provisioning intervals offered by Qwest in its SGAT are either specifically approved by the FCC or more generous to CLECs than required by the FCC. Although the intervals established by the FCC do not apply in the context of virtual collocation,²⁶ Qwest has nonetheless offered intervals for this method of collocation that are similar to the FCC standard for physical collocation. These intervals are substantially shorter than the interval

²⁵ Six State Collaborative Workshops, Salt Lake City, Utah, Workshop 1, October 6, 2000, Tr. pgs. 83-84 (Covad); Six State Collaborative Workshop, Salt Lake City, Utah, Workshop 1, October 4, 2000, Tr. pgs 86-87: Mr. Steese: And McLeod would have no objection to submitting collocation forecasts on a routine basis to get those shortened time frames? Mr. Jennings: We'd have no objection to that. Mr. Steese: McLeod would be willing to provide forecasts to Qwest to get the shortened intervals? Mr. Jennings: Yes. In addition, in response to written discovery, New Edge claimed it had no objection to providing collocation forecasts.

²⁶ *Order on Reconsideration* at ¶ 32 ("We decline at this time to set provisioning intervals for virtual collocation.").

previously offered by Qwest. Moreover, the intervals are consistent with PIDs negotiated by CLECs. The Staff should reverse course and adopt Qwest's collocation intervals.

B. Whether Qwest is Entitled to Limit the Number of Collocations CLECs Can Issue Each Week: Disputed Issue No. 4.

The SGAT contains a provision (SGAT § 8.4.1.9, formerly § 8.4.3.3) that limits CLECs to issuing 5 collocation orders per state per week. Decisions in Washington and Wyoming have upheld this provision. Similarly, the 7-State Facilitator recognized that "Qwest should have the opportunity to adjust collocation intervals when the workload becomes unmanageable." The Arizona Staff's recommendation in this regard is confusing: "Staff recommends that Qwest's intervals for collocations be increased by 10 days for every 10 (or fraction thereof) additional applications. Staff recommends that no relief should be allowed unless the number of collocation orders in a given month exceeds 10 orders per week times the number of Arizona CLECs per month. If that maximum number is hit, Qwest must receive relief from the Arizona Commission. Report at ¶ 404.

Qwest understands the first sentence of the recommendation: it extends the maximum number of collocations from 5 to 10. The confusion exists around the second sentence. It suggests that Qwest take the number of CLECs in Arizona times 10, and only when this number of collocations is exceeded may Qwest get relief from the collocation intervals. As of June 30, there were 72 CLECs in Arizona, 33 of whom have collocation. Thus, Qwest could seek relief until it had received either 330 collocation orders in one week or 720 collocation orders in one week, depending on how the decision is read. This is tantamount to no relief at all.

In its BellSouth Louisiana II Section 271 decision, the FCC stated that ILECs should only be required to prepare for *reasonably foreseeable* volumes.²⁷ Businesses prepare for the norm,

²⁷ *Second BellSouth Louisiana Order* at ¶ 54 (Oct. 1998).

not the exception. The amount of order volume from CLECs can vary by more than 10-fold in any given month, with even greater variations on a given day or week.²⁸ This provision of the SGAT entitles Qwest to coordinate with a CLEC, where necessary, to meet unusually high demand.

The FCC confirmed this view in its recent Collocation decision which held that: “. . . we believe that an incumbent LEC has had ample time since the enactment of section 251(c)(6) to develop internal procedures sufficient to meet this deadline [national default interval], *absent the receipt of an extraordinary number of complex collocation applications within a limited time frame.*”²⁹ State commissions have the authority to adopt “significantly longer” provisioning intervals, when presented with evidence that would justify this need. Thus, the FCC clearly contemplated exceptions to collocation provisioning intervals under these exact circumstances. Indeed, the FCC approved Southwest Bell’s (“SWBT”) Section 271 application, which contained a high volume exception to the standard collocation-provisioning interval. In finding that SWBT’s collocation offering satisfied the requirements of sections 271 and 272 of the Act, the FCC noted that SWBT responds to CLEC collocation requests within 10 days, “[e]xcept where a competitive LEC places a large number of collocation orders in the same 5-business day period.”

Qwest therefore proposes to retain the following SGAT language:

8.4.1.10 The intervals for Virtual Collocation (Section 8.4.2), Physical Collocation (Section 8.4.3), and ICDF Collocation (Section 8.4.4) apply to a maximum of five (5) Collocation Applications per CLEC per week per state. If six (6) or more Collocation orders are submitted by CLEC in a one-week period in the state, intervals shall be individually negotiated. Qwest shall, however, accept more than five (5) Applications from CLEC per

²⁸ *SBC Texas Order* at ¶ 73 (citations omitted). It is important here to note that while forecasts will help Qwest anticipate the anticipated level of applications month to month, the variations week-to-week and particularly day-to-day can be significant. See *Exhibit 1*.

²⁹ FCC 00-297 at ¶ 24 (emphasis added).

week per state, depending on the volume of Applications pending from other CLECs.

The data Qwest presented during collocation workshops justifies this provision. *Exhibit 1* to this pleading shows that, with the exception of March and April, 2000, Qwest received between 115 and 385 collocation applications per month region-wide. Qwest's recent performance data shows the number of collocation applications stabilizing out and, if anything, decreasing. Qwest must have staff in place to meet "reasonably foreseeable demand," which Qwest estimates to be about 300 collocation applications per month or approximately 70 orders per week *region-wide*. If one CLEC were to submit 5 orders in one week in the state, it has utilized 7% of Qwest's overall collocation capacity. If a CLEC withheld its orders and submitted 5 collocation orders in 5 of the 14 states simultaneously, it would utilize 35% of Qwest's capacity.

Qwest serves 114 CLECs across its 14-state region, of which approximately 82 request collocation. All CLECs deserve prompt service and equal treatment. The Commission should not allow one or two CLECs to absorb all of Qwest's collocation capacity by failing to plan and stage collocation applications. The existing performance data shows what happens when a CLEC fails to plan well. In March and April 2000, Qwest received 645 and 792 collocation applications respectively. This was almost double the volume that Qwest experienced in any other month since January 2000. From the date of the application (at that time), Qwest had between 120 and 160 days to complete these collocations. Thus, one would expect to see the heavy volume affect Qwest's performance data between July and September 2000. In those three months, Qwest's failed to meet its performance objective for new physical collocations (90% commitments met) in two of the three months. At the same time, in the last few months since the volumes have stabilized, Qwest's performance has been 97.78% in one month and

100% commitments met in the remaining months. It is easy to see that peak demand affects Qwest's ability to provide timely service. CLECs should plan accordingly, and this provision will help to protect against that very concern. Qwest respectfully requests that the Commission approve this SGAT provision as proposed by Qwest.

Staff's recommended decision would allow the Arizona CLECs to effectively usurp all of the resources that Qwest has dedicated to collocation region-wide. This is tantamount to no relief at all. Qwest recommends that its SGAT language be adopted. To the extent that Staff wants some secondary protection to ensure that Qwest has defined intervals under which to operate, it should add a provision that reads "For each collocation application that CLEC submits in excess of five (5) in one week, Qwest will provision that collocation in a timely a manner as possible, and in no event, shall the remaining collocations take more than seven (7) additional days for each additional five (5) collocations submitted." This language gives additional protection to the CLECs while simultaneously recognizing that Qwest has resources dedicated to collocation based upon "reasonably foreseeable demand."

C. Staff Correctly Found that Qwest is Entitled to Charge CLECs for Channel Regeneration in Limited Circumstances: Disputed Issue No. 5.

This issue concerns whether or not Qwest is entitled to recover for channel regeneration when Qwest has no choice but to place a collocation in a location that requires channel regeneration. Channel regeneration is required when the collocation is greater than a certain distance from its power source. The Report found that "Staff recommends that the SGAT be modified to remove the power to charge where there exists another available collocation location where regeneration would not be required, or where there would have been such a location, had Qwest not reserved space for its future use in the affected premises. Report at ¶ 418. The 7-State Facilitator recommended likewise. Qwest agrees with the Staff's resolution of this issue.

Qwest only seeks clarification of words in the Transport (Checklist Item 5) Report which held that Qwest cannot recover for channel regeneration because "Qwest has the sole ability to determine the location of the CLECs collocation arrangements." Transport Report at ¶¶ 73-76. This is not true; as the Staff recognized in the Collocation Report, the central office itself might preclude collocation sufficiently close to the power source thereby necessitating regeneration. Qwest assumes that this is what the Staff intended here as well due to the reference to the Arizona cost docket. In the cost docket, Qwest conceded that it cannot recover for channel regeneration when alternative locations exist that would not require channel regeneration. In other words, Qwest has conceded how the Staff has decided in the issue in the collocation report, not the transport report. Qwest recommends that Staff correct the transport report and create consistency.

Respectfully submitted this 27th day of August, 2001.

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**COLLOCATION APPLICATIONS RECEIVED
By Month By State – 2000**

STATE	JAN-00	FEB-00	MAR-00	APR-00	MAY-00	JUN-00	JUL-00	AUG-00	SEP-00	OCT-00	NOV-00	DEC-00	TOTAL
AZ	16	57	146	197	37	2	18	95	37	70	22	43	
CO	61	91	81	104	56	26	19	41	32	86	24	38	
IA	7	19	59	29	38	4	8	17	6	12	5	3	
ID	2	12	7	7	6	12	9	6	0	4	1	1	
MN	12	45	119	181	73	41	45	34	44	54	16	15	
MT	0	3	2	24	0	5	3	3	1	2	2	2	
ND	1	2	6	9	0	2	1	2	0	3	1	2	
NE	11	27	37	28	13	1	1	6	2	23	3	6	
NM	15	24	1	14	21	1	5	0	9	17	1	14	
OR	19	9	68	40	37	13	29	27	40	27	25	10	
SD	1	2	2	4	3	0	0	0	1	0	0	0	
UT	25	35	31	44	4	15	17	30	17	27	1	14	
WA	39	56	84	111	45	30	21	24	60	43	14	36	
WY	0	3	2	0	2	2	2	2	2	2	0	0	
ALL STATES	209	385	645	792	335	154	178	287	251	370	115	184	

COLLOCATION APPLICATIONS RECEIVED By Day - 2000

DAY	JAN-00	FEB-00	MAR-00	APR-00	MAY-00	JUN-00	JUL-00	AUG-00	SEP-00	OCT-00	NOV-00	DEC-00
WEEK 1												
M	3			26	47		2			4		
T	13	2		21	27		2	15		4		
W	1	20	201	13	10		1	29		22	2	
T	1	24	49	30	2	4	1	13		54	28	
F	2	42	8	4	0	13	1	0	25	4	5	4
WEEK 2												
M	4	33	13	56	9	15	26	2	0	1	17	3
T	8	18	16	74	0	3	11	7	5	4	5	8
W	1	14	28	24	7	0	13	14	5	84	0	3
T	8	10	1	23	78	16	11	13	1	27	1	7
F	31	26	7	2	8	0	0	0	2	23	6	0
WEEK 3												
M	9	1	21	222	19	5	23	48	14	30	7	23
T	18	50	11	6	5	13	16	13	4	15	7	15
W	13	30	15	20	1	7	10	7	6	23	3	18
T	43	7	3	35	13	3	4	66	7	21	4	17
F	1	17	8	4	9	1	0	0	33	4	2	20
WEEK 4												
M	2	5	38	159	21	4	22	11	17	13	4	21
T	5	46	8	36	1	4	22	0	9	6	3	19
W	13	2	39	30	2	14	0	5	48	8	8	3
T	13	29	24	5	16	3	2	8	14	5	0	6
F	7	0	8	2	1	2	0	5	13	3	0	8
WEEK 5												
M	13	3	76		0	0	11	11	3	12	2	4
T		6	19		28	2		11	11	3	3	0
W			23		31	3		6	19		1	2
T			23			42		3	10		7	3
F			6			0			5			

Collocation

CP-1 – Installation Interval

Purpose: Evaluates the timeliness of Qwest's installation of collocation arrangements for CLECs, focusing on the average time to complete such arrangements.	
Description: Measures the interval between the receipt of the down payment from the CLEC and the completion of the collocation installation, expressed in calendar days. <ul style="list-style-type: none"> Includes all collocations assigned a Ready For Service (RFS) date by Qwest and completed during the reporting period, subject to exclusions specified below. 	
Reporting Period: One month	Unit of Measure: Average Calendar Days
Reporting Comparisons: CLEC aggregate and individual CLEC results	Disaggregation Reporting: Statewide level. Results for this indicator are disaggregated and reported as follows: A-1 Virtual, Physical Caged, and Shared Collocation. A-2 Augments to Virtual, Physical Caged, and Shared Collocations. B-1 Cageless Collocations. B-2 Augments to Cageless Collocations.
Formula: $\Sigma[(\text{Collocation Completion Date}) - (\text{Collocation Interval Start Date})] / (\text{Total Number of Collocations Completed in Reporting Period})$	
Exclusions: <ul style="list-style-type: none"> CLEC orders involving requests for RFS dates yielding longer than 90 calendar day intervals. RFS dates missed for CLEC-not-ready; RFS dates missed for CLEC equipment delays. 	
Product Reporting: <ul style="list-style-type: none"> Virtual, Physical Caged, and Shared Collocation Cageless Collocation 	Standard: 90 calendar days
Availability: Available	Notes:

CP-2 – Installation Commitments Met

Purpose: Evaluates the extent to which Qwest completes collocation arrangements for CLECs as scheduled or promised.	
Description: Measures the percentage of collocation orders for which the Ready For Service (RFS) date is met. <ul style="list-style-type: none"> Includes all collocations assigned a RFS date by Qwest and completed within the reporting period, including those with CLEC-requested RFS dates longer than the standard interval and those with extended RFS dates negotiated with the CLEC (including supplemented collocation orders that extend the RFS date). A collocation arrangement is counted as met under this measurement if its Collocation Completion Date is the same as, or earlier than, the assigned RFS date. For CLECs with interconnection agreements that specify collocation installation intervals, and for individually negotiated intervals, the agreed-upon interval is the one measured. For CLECs with interconnection agreements that do not specify collocation installation intervals, the intervals applied for this measurement will be 90 calendar days for all types of collocation and augments thereto. 	
Reporting Period: One month	Unit of Measure: Percent
Reporting Comparisons: CLEC aggregate and individual CLEC results	Disaggregation Reporting: Statewide level. Results for this indicator are disaggregated and reported as follows: <ul style="list-style-type: none"> A-1 Virtual, Physical Caged, and Shared Collocation A-2 Augments to Virtual, Physical Caged, and Shared Collocations. B-1 Cageless Collocations. B-2 Augments to Cageless Collocations.
Formula: $\left[\frac{\text{Count of Collocations with Collocation Completion Dates that are the same as, or earlier than, the assigned Ready for Service Date}}{\text{Total Number of Collocations Completed in the Reporting Period}} \right] \times 100$	
Exclusions: <ul style="list-style-type: none"> RFS dates missed for CLEC-not-ready; RFS dates missed for CLEC equipment delays. 	
Product Reporting: <ul style="list-style-type: none"> Virtual, Physical Caged, and Shared Collocation Cageless Collocation 	Standard: 90 percent or more
Availability: Available	Notes:

CP-4 – Feasibility Study Commitments Met

Purpose: Evaluates the degree that Qwest met its stated commitment in the sub-process function of providing a collocation feasibility study to the CLEC.	
Description: Measures the percentage of collocation feasibility studies for installations that are completed within the allotted time frame for such studies. <ul style="list-style-type: none"> Includes all feasibility studies associated with collocation arrangements completed in the reporting period. For CLECs with interconnection agreements that identify a collocation feasibility study interval, and for individually negotiated intervals, the agreed-upon interval is the one measured. For CLECs without interconnection agreements that identify a collocation feasibility study interval, the interval measured is 7 business days for virtual collocation and 10 business days for physical collocation. 	
Reporting Period: One month	Unit of Measure: Percent
Reporting Comparisons: CLEC aggregate and individual CLEC results	Disaggregation Reporting: Statewide level. Results for this indicator are disaggregated and reported as follows: <ul style="list-style-type: none"> A-1 Virtual and Physical Caged and Shared Collocation A-2 Augments to Virtual and Physical Caged and Shared Collocations. B-1 Cageless Collocations. B-2 Augments to Cageless Collocations.
Formula: $\left[\frac{\text{Total Applicable Collocation Feasibility studies completed in agreed-upon timeframe}}{\text{Total applicable Collocation Feasibility studies completed}} \right] \times 100$	
Exclusions: None	
Product Reporting: <ul style="list-style-type: none"> Virtual, Physical Caged, and Shared Collocation Cageless Collocation 	Standard: 90 percent or more
Availability: <div style="text-align: center;">Available</div>	Notes:

CP-6 – Quote Commitments Met

Purpose: Evaluates the degree that Qwest met its stated commitment in the sub-process function of providing a collocation quote to the CLEC.	
Description: Measures the percentage of Central Office collocation quotes that are completed within the allotted time frame. <ul style="list-style-type: none"> Includes quotes associated with collocation arrangements that are completed in the reporting period. For CLECs with interconnection agreements that identify a collocation quote interval, and for individually negotiated intervals, the agreed-upon interval is the one measured. For CLECs without interconnection agreements that identify a collocation quote interval, the interval measured is 25 calendar days. 	
Reporting Period: One month	Unit of Measure: Percent
Reporting Comparisons: CLEC aggregate and individual CLEC results	Disaggregation Reporting: Statewide level. Results for this indicator are disaggregated and reported as follows: <ul style="list-style-type: none"> A-1 Virtual and Physical Caged and Shared Collocation A-2 Augments to Virtual and Physical Caged and Shared Collocations. B-1 Cageless Collocations. B-2 Augments to Cageless Collocations.
Formula: $\left[\frac{\text{Total Applicable Collocation Quotations completed in agreed-upon timeframe}}{\text{Total applicable Collocation Quotations completed}} \right] \times 100$	
Exclusions: None	
Product Reporting: <ul style="list-style-type: none"> Virtual Physical Caged and Shared Collocation Cageless Collocation 	Standard: 90 percent or more
Availability: Available	Notes: